

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3  
4 Alfred Paul Centofanti, III,

Case No. 2:13-cv-01080-JAD-PAL

5 Petitioner

6 v.

**Order Granting Motion to Reopen Case**

7 Dwight Neven, et al.,

[ECF No. 58]

8 Respondents

9 On July 2, 2014, I granted Petitioner Alfred Paul Centofanti, III's request for a stay and  
10 abeyance<sup>1</sup> under *Rhines v. Weber*, 544 U.S. 269 (2005), and administratively closed this action  
11 pending the resolution of his second state post-conviction habeas petition and any appeal  
12 therefrom.<sup>2</sup> Centofanti's state proceedings have concluded, so he now moves to reopen this  
13 case. Respondents have not opposed or responded to the motion, and the deadline to do so has  
14 passed.

15 Good cause appearing, IT IS THEREFORE ORDERED Petitioner's motion to reopen the  
16 case [ECF No. 58] is **GRANTED, the STAY IS LIFTED, and the Clerk of the Court is**  
17 **directed to REOPEN this case.**

18 IT IS FURTHER ORDERED that petitioner has until July 4, 2021, to FILE AND SERVE  
19 on respondents an amended petition for writ of habeas corpus. Respondents will have 30 days  
20 after service of an amended petition to answer or otherwise respond to the amended petition. If a  
21 dispositive motion is filed, the motion must be briefed according to Rules 7-2 and 7-3 of the  
22 Local Rules of Practice; if respondents file an answer, petitioner will have 30 days after service  
23 of the answer to file and serve a reply.

24 IT IS FURTHER ORDERED that any procedural defenses respondents raise in this case  
25 must be raised together in a single consolidated motion to dismiss. Procedural defenses omitted  
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27 <sup>1</sup> ECF No. 34.

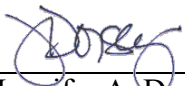
28 <sup>2</sup> ECF No. 40.

1 from such motion to dismiss will be subject to potential waiver. Respondents may not file a  
2 response in this case that consolidates their procedural defenses, if any, with their response on  
3 the merits, except as contemplated by 28 U.S.C. § 2254(b)(2) as to any unexhausted claims  
4 clearly lacking merit. If respondents do seek dismissal of unexhausted claims under  
5 § 2254(b)(2), they must do so within the single motion to dismiss, not in the answer, and  
6 specifically direct their argument to the standard for dismissal under § 2254(b)(2) set forth in  
7 *Cassett v. Stewart*, 406 F.3d 614, 623–24 (9th Cir. 2005). In short, no procedural defenses,  
8 including exhaustion, may be included with the merits in an answer. All procedural defenses,  
9 including exhaustion, instead must be raised by motion to dismiss.

10 IT IS FURTHER ORDERED that in any answer filed on the merits, respondents must  
11 specifically cite to and address the applicable state court written decision and state court record  
12 materials, if any, regarding each claim within the response as to that claim.

13 IT IS FURTHER ORDERED that any state court record and related exhibits must be  
14 filed in accordance with LR IA 10-3, LR IC 2-2, and LR 3-3 and include a separate index  
15 identifying each additional exhibit by number or letter. The index must be filed in CM/ECF's  
16 document upload screen as the base document to receive the base docket number (*e.g.*, ECF  
17 No. 10). Each exhibit will then be filed as an “attachment” to the base document—the index—to  
18 receive a sequenced sub-docket number (*e.g.*, Exhibit A (ECF No. 10-1), Exhibit B (ECF  
19 No. 10-2), Exhibit C (ECF No. 10-3), and so forth). If the exhibits will span more than one  
20 filing, the base document in each successive filing must be either a copy of the index or volume  
21 cover page. *See* LR IC 2-2(a)(3)(A).

22 IT IS FURTHER ORDERED that notwithstanding LR IC 2-2(g), paper copies of any  
23 electronically filed exhibits—for this case—*need not* be provided to chambers or to the staff  
24 attorney, unless later directed by the court.

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U.S. District Judge Jennifer A. Dorsey  
Dated: 5/5/2021